

From: Christina Bishop
To: Microsoft ATR
Date: 1/15/02 1:43pm
Subject: Microsoft Settlement

Judge Kollar-Kotally,

I believe that the Proposed Final Judgement (PFJ) in the case U.S. vs. Microsoft is flawed in the following ways:

The PFJ does not End Microsofts Monopoly and Even Allows Microsoft to expand its Monopoly into Other Technology Markets. The deal fails to terminate the Microsoft monopoly, and instead guarantees Microsofts monopoly will survive and be allowed to expand into new markets. Microsoft has always found it advantageous to leverage its operating system monopoly position in order to maximize its own profits, which many of us have experienced firsthand.

The PFJ Does Not Adequately Address Anticompetitive Behavior Identified by the Appeals Court.

The PFJ Incorporates Such Large Loopholes to Its Enforcement Provisions as to Render Enforcement Meaningless.

The PFJ Does Not Provide an Effective Enforcement Mechanism for the Weak Restrictions it does Implement.

The proposed settlement requires a three-man compliance team to oversee Microsofts compliance with the Agreement. Microsoft will appoint one person, the Justice Department another, and the third will be chosen by the two people already appointed. In essence, Microsoft will control half the team. This new team will not be allowed to inform the public of their work, and cannot impose fines. In addition, the work of the committee cannot be admitted into court in any enforcement proceeding. The committees sole remedy for infractions is for them to inform the Justice Department of the infraction and then the Justice Department will have to conduct their own research and commence litigation to stop the infraction. The Justice Department does not need a compliance group to tell them when Microsoft is doing something wrong, so in reality this group is just a smoke screen.

The PFJ Does not deny to Microsoft the Fruits of its Past Statutory Violations. Under the proposed settlement, Microsoft is only marginally penalized for its anticompetitive misdeeds. Every court involved with this case has acknowledged that Microsoft broke the anti-trust laws, yet under the terms of the proposed Agreement, Microsoft would be allowed to retain almost all of the profits gained from these activities. Nor does the PFJ make an accounting of all the gains Microsoft made through its illegal activities, nor does it try and compensate those harmed by Microsofts misdeeds. Through this proposed settlement, the Justice Department is sending a very clear (and very dangerous) message that anticompetitive behavior is totally acceptable. Every large potential monopolist is being told that they can get away with this sort of illegal behavior without fear of losing any of the profits made from such conduct. There is every incentive for future monopolists (most definitely including Microsoft) to engage in this type of predatory conduct and no incentive not to.

Thank you for your time.

Christina Bishop

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